

STATE OF MICHIGAN  
COURT OF APPEALS

---

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES A. BROOKS,

Defendant-Appellant.

---

UNPUBLISHED

October 9, 2003

No. 237171

Wayne Circuit Court

LC No. 01-001328-01

Before: Donofrio, P.J., and Fort Hood and Schuette, JJ.

PER CURIAM.

Defendant was convicted, following a jury trial, of second degree murder, MCL 750.317, possession of a firearm during the commission of a felony, MCL 750.227b, and felon in possession of a firearm, MCL 750.224f. He was sentenced to twenty to fifty years' imprisonment for the murder conviction, two years' imprisonment for the felony-firearm conviction, and two to five years imprisonment for the felon in possession conviction. Defendant appeals as of right, and we affirm.

Defendant first alleges that the trial court deprived him of his right to confront the eyewitness by limiting cross-examination. We disagree. The trial court has the discretion to limit the scope of cross-examination, and due process does not confer an unlimited right to cross-examine on any subject. *People v Canter*, 197 Mich App 550, 564; 496 NW2d 336 (1992). The trial court appropriately noted that the subject matter raised by defense counsel had been addressed, and it was time to move to a different area. Despite this advisory, defense counsel returned to the subject by raising the issue in the context of the diagram. Thus, this claim is not supported by the record.<sup>1</sup>

---

<sup>1</sup> Defendant also contends that the trial court erred by refusing to allow the court reporter to read back inconsistent statements made by the eyewitness. However, defense counsel fails to cite authority in support of an entitlement to such a request. The statement of a position without citation to authority is insufficient to raise an issue for appellate review. *People v Jones (On Rehearing)*, 201 Mich App 449, 456-457; 506 NW2d 542 (1993). Therefore, we do not address it.

Defendant alleges that the cumulative errors by trial counsel warrant reversal. We disagree. Effective assistance of counsel is presumed, and the defendant bears a heavy burden of proving otherwise. *People v Effinger*, 212 Mich App 67, 69; 536 NW2d 809 (1995). To establish ineffective assistance of counsel, a defendant must show that counsel's performance fell below an objective standard of reasonableness under prevailing norms and that there is a reasonable probability that, but for counsel's error, the result of the proceedings would have been different. *Id.* It is presumed that challenged action may be deemed sound trial strategy that this Court will not second guess. *People v Williams*, 240 Mich App 316, 331-332; 614 NW2d 647 (2000). Based on the record available, defendant has failed to meet the high burden of demonstrating ineffective assistance. Rather, the admitted testimony falls into the category of trial strategy as evidenced by the arguments of trial counsel. Thus, this claim of error is without merit.

Lastly, defendant's challenge to the sufficiency of the felon in possession conviction is without merit in light of the stipulated submission.

Affirmed.

/s/ Pat M. Donofrio  
/s/ Karen M. Fort Hood  
/s/ Bill Schuette